

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) CRIMINAL CASE NO. CCB-17-106
WAYNE JENKINS,) CRIMINAL CASE NO. CCB-17-638
Defendant.)
_____)

Friday, January 5, 2018
Courtroom 7D
Baltimore, Maryland

BEFORE: THE HONORABLE CATHERINE C. BLAKE, JUDGE

REARRAIGNMENT

For the Plaintiff:

Leo J. Wise, Esquire
Derek E. Hines, Esquire
Assistant United States Attorneys

For the Defendant:

Steven Levin, Esquire

Also Present:

Melissa McGuinness, U.S. Probation Officer

Reported by:

Douglas J. Zweizig, RDR, CRR
Federal Official Court Reporter
101 W. Lombard Street, 4th Floor
Baltimore, Maryland 21201

P R O C E E D I N G S

(10:33 a.m.)

THE COURT: Good morning, everyone. You can be seated, please.

Call the case, Mr. Wise.

MR. WISE: Good morning, Your Honor.

Leo Wise and Derek Hines for the United States. The cases are United States of America versus Wayne Jenkins, Criminal No. CCB-17-106 and United States of America versus Wayne Jenkins, Criminal No. CCB-17-638.

THE COURT: All right.

MR. LEVIN: Good morning, Your Honor.

THE COURT: Good morning.

MR. LEVIN: Steven Levin on behalf of Wayne Jenkins, who is seated to my right.

THE COURT: All right. And if Mr. Jenkins is ready to proceed, we'll go ahead with taking the pleas.

THE CLERK: Please stand. And please raise your right hand.

WAYNE JENKINS, SWORN.

THE CLERK: Thank you.

Please state and spell your full name for the record.

THE DEFENDANT: Wayne Earl Jenkins, W-A-Y-N-E, E-A-R-L, J-E-N-K-I-N-S.

THE CLERK: What is your age?

1 **THE DEFENDANT:** 37, ma'am.

2 **THE CLERK:** What year were you born?

3 **THE DEFENDANT:** 1980.

4 **THE CLERK:** Mr. Jenkins, as to Criminal Docket
5 No. CCB-17-0106, how do you wish to plead to Counts 1 through 6
6 of the superseding indictment?

7 **THE DEFENDANT:** Guilty, ma'am.

8 **THE CLERK:** As to which counts, sir?

9 **THE DEFENDANT:** 1, 2, 3, and 5.

10 **THE CLERK:** In Criminal Docket No. CCB-17-0106, the
11 plea is guilty as to Counts 1, 2, 3, 5 and not guilty as to
12 Counts 4 and 6; is that correct?

13 **THE DEFENDANT:** Yes, ma'am.

14 **THE CLERK:** Mr. Jenkins, as to Criminal Docket
15 CCB-17-0638, how do you wish to plead to Counts 1 through 5 of
16 the indictment?

17 **THE DEFENDANT:** Guilty, 1 through 5.

18 **THE CLERK:** Guilty as to 1 through 5?

19 **THE DEFENDANT:** Yes, ma'am.

20 **THE CLERK:** In Criminal Docket No. CCB-17-0638, the
21 plea is guilty as to Counts 1 through 5; is that correct, sir?

22 **THE DEFENDANT:** Yes, ma'am.

23 **THE CLERK:** Thank you.

24 **THE COURT:** All right. Thank you. You can be seated.

25 And, actually, I think, Mr. Levin -- well, first of

1 all, that projector/monitor might push forward. I think it
2 pushes forward the other way, like towards me.

3 **MR. LEVIN:** Ah.

4 **THE COURT:** Thank you. I should have done that
5 before. Okay. Thank you.

6 And, Mr. Jenkins, as I'm sure you know, what I need to
7 do is just to ask you a series of questions to make sure that
8 you know what you're doing.

9 At any point if you don't understand any of my
10 questions or you need a chance to talk to Mr. Levin for any
11 reason, just let me know; all right?

12 **THE DEFENDANT:** Yes, ma'am.

13 **THE COURT:** All right, sir. If you can pull the mic
14 just a little bit closer to you.

15 Do you understand you are under oath, so if you
16 knowingly give a false answer to any of my questions, you could
17 be prosecuted for false declaration or perjury?

18 **THE DEFENDANT:** Yes, ma'am.

19 **THE COURT:** All right, sir. How far did you go in
20 school?

21 **THE DEFENDANT:** I graduated.

22 **THE COURT:** I take it you were able to read and
23 understand the charges against you and the plea letter in this
24 case?

25 **THE DEFENDANT:** Yes, ma'am.

1 **THE COURT:** In the past 24 hours, have you taken any
2 drugs or alcohol or medication of any kind?

3 **THE DEFENDANT:** No, ma'am.

4 **THE COURT:** Any recent treatment for substance abuse
5 or mental health problems?

6 **THE DEFENDANT:** No, ma'am.

7 **THE COURT:** Any difficulty understanding what's going
8 on here today?

9 **THE DEFENDANT:** No, ma'am.

10 **THE COURT:** All right. You're pleading guilty to a
11 number of charges. I need to go through with you what the
12 Government would have to prove if the case went to trial on
13 those charges.

14 First of all, in 17-106, that is Count 1. It is a
15 racketeering conspiracy; Count 2 is racketeering; and Counts 3
16 and 5 are both Hobbs Act robberies.

17 So in terms of those charges regarding Count 1, the
18 racketeering conspiracy, the Government would have to prove
19 that there was an enterprise that existed at the Baltimore
20 Police Department, as alleged in the indictment, and that
21 during the -- it existed, and during the times alleged in the
22 indictment, it affected interstate or foreign commerce.

23 Then they'd have to prove that you were associated
24 with or employed by that enterprise. And most important that
25 you personally, knowingly, willfully, you became a member of

1 the conspiracy, the racketeering conspiracy itself, the
2 agreement, unlawful agreement.

3 Count 2 is the racketeering count. They would again
4 have to prove beyond a reasonable doubt, the Government would,
5 that there was an enterprise that existed as charged in the
6 indictment; that it affected interstate or foreign commerce;
7 that you were associated with or employed by it; and that you
8 engaged in a pattern of racketeering activity, you did that
9 knowingly, voluntarily, again, intentionally, and you conducted
10 or participated in the conduct of that enterprise, the police
11 department, through that pattern of racketeering activity.

12 And then as far as Counts 3 and 5, those are both
13 Hobbs Act robbery charges, so they'd have to show that on or
14 pretty close to the dates charged in the indictment here in
15 Maryland that you, first of all, knowingly obtained or took the
16 personal property of someone else or from their presence; that
17 you did that against the victims' will by actual or threatened
18 force, violence, or fear of injury, whether immediately or in
19 the future; and that as a result of those actions, interstate
20 commerce or some item moving in interstate commerce was
21 delayed, obstructed, or affected in some degree.

22 So as far as those four charges in 17-106, sir, do you
23 understand that's what the Government would have to prove if
24 the case went to trial?

25 **THE DEFENDANT:** Yes, ma'am, I do.

1 **THE COURT:** Okay. For Case 17-638, Count 1 charges
2 destruction, alteration, or falsification of records in a
3 federal investigation and Counts 2 through 5 charge you with
4 deprivation of rights under color of law.

5 So for Count 1, in that case the Government would have
6 to prove beyond a reasonable doubt, first of all, that you did
7 alter or falsify or destroy or cover up or make a false entry
8 in some record or document or object that could be used to
9 record or preserve information as charged in the indictment,
10 again, on or about the date charged.

11 They'd have to prove you acted knowingly and that you
12 acted with the intent to impede, obstruct, or influence an
13 investigation or some matter within the jurisdiction of or in
14 relation to a department or agency of the United States
15 Government.

16 Do you understand that's what they'd have to prove for
17 Count 1?

18 **THE DEFENDANT:** Yes, ma'am, I do.

19 **THE COURT:** All right. Counts 2 through 5, they would
20 have to prove that on or about the dates -- they're somewhat
21 different dates charged in the indictment -- that you were
22 acting under color of law; that in doing that, you deprived or
23 caused to be deprived two individuals identified as U.B. and
24 B.M. of their rights, which are secured and protected by the
25 Constitution and laws of the United States; and specifically

1 those were the rights to be free from the deprivation of
2 liberty without due process of law; that includes the right to
3 be free from incarceration due to the fabrication of evidence
4 by a law enforcement officer; and also the right to be free
5 from incarceration due to a law enforcement officer's willful
6 failure to disclose exculpatory evidence to a prosecutor.

7 So they'd have to prove all that, and, again, that you
8 acted willfully with intent and knowledge and not by accident
9 or mistake.

10 Do you understand that's what the Government would
11 have to prove as far as Counts 2 through 5?

12 **THE DEFENDANT:** Yes, ma'am.

13 **THE COURT:** All right, sir. In terms of the possible
14 penalties, do you understand that the maximum sentence under
15 the law for Counts 1 and 2, the racketeering conspiracy and the
16 racketeering, the maximum sentence is 20 years in prison, three
17 years of supervised release, and a fine of not more than twice
18 whatever gross proceeds were derived from that offense?

19 And for Counts 3 and 5, the Hobbs Act robbery, there's
20 also a maximum sentence of 20 years in prison, three years of
21 supervised release, and a fine of not more than \$250,000.

22 Do you understand those maximum penalties?

23 **THE DEFENDANT:** Yes, ma'am, I do.

24 **THE COURT:** All right. Regarding the charges in
25 Case 17-638, for Count 1, the destruction, alteration, or

1 falsification of records in a federal investigation, do you
2 understand, again, the maximum is 20 years in prison, three
3 years of supervised release, and a fine of as much as \$250,000?

4 **THE DEFENDANT:** Yes, ma'am.

5 **THE COURT:** And finally, Counts 2 through 5, the
6 deprivation of rights under color of law, do you understand
7 that each of those carry a sentence, a maximum sentence of
8 one-year incarceration, three years of supervised release, and
9 a fine of as much as \$250,000?

10 **THE DEFENDANT:** Yes, ma'am.

11 **THE COURT:** All right, sir. In addition, each of
12 these nine counts carries a special assessment of \$100, so
13 that's a total of \$900. And you may be ordered to pay
14 restitution.

15 Do you understand that also?

16 **THE DEFENDANT:** Yes, ma'am.

17 **THE COURT:** All right. I mentioned supervised
18 release. Supervised release is a term of years that's imposed
19 to follow whatever prison term you might get.

20 While you're on supervised release, you have to obey
21 the rules and regulations of supervised release, not commit any
22 new offense.

23 If you violate any condition of supervised release,
24 you can get put back in prison for the full term of the
25 supervised release without getting any credit for the time you

1 were out. Even if that somehow meant you spent more time in
2 prison than would otherwise be the maximum, that's how
3 supervised release works. If you violate it, you could go back
4 to jail for the full term.

5 Do you understand that?

6 **THE DEFENDANT:** Yes, ma'am.

7 **THE COURT:** All right. Do you understand that you're
8 subject to what are called the sentencing guidelines that have
9 been issued by the United States Sentencing Commission? They
10 are advisory, but I have to calculate them and take them into
11 account, deciding on a reasonable sentence in your case.

12 And the advisory guideline range depends on a variety
13 of things: The type of the offense, your role in the offense,
14 the amount of loss involved, those kinds of things go into
15 deciding what the advisory guideline range is going to be.

16 Do you understand that?

17 **THE DEFENDANT:** Yes, ma'am.

18 **THE COURT:** Do you understand that under the law --
19 and this may be changed by your plea agreement -- but under the
20 law, if you think I make some mistake deciding on your
21 sentence, ordinarily you have the right to appeal the sentence?

22 The same is true for the Government, ordinarily under
23 the law if the Government thinks I make a mistake deciding on
24 the sentence, then the Government has the right to appeal.

25 Do you understand that?

1 **THE DEFENDANT:** Yes, ma'am.

2 **THE COURT:** All right. When you plead guilty, you are
3 giving up some very important rights. I'm sure you're aware of
4 that and I'm sure you've discussed it with counsel, but I need
5 to go through some of those with you to make sure you're giving
6 them up voluntarily.

7 So you understand you have a right to continue to
8 plead not guilty to these charges?

9 **THE DEFENDANT:** Yes, ma'am, I do.

10 **THE COURT:** Do you understand you have a right to a
11 trial by a jury?

12 **THE DEFENDANT:** Yes, ma'am, I do.

13 **THE COURT:** Do you understand if you were willing to
14 give up your right to a trial by a jury, and if the Government
15 also was willing to give up its right to a trial by a jury, you
16 could be tried just by a United States District Judge, you
17 could have a judge trial?

18 Do you understand that?

19 **THE DEFENDANT:** Yes, ma'am.

20 **THE COURT:** Do you understand that if you did want to
21 go to trial, you would continue to have the right to be
22 represented by counsel, just as you are now? He would stick
23 with you. And at any point or so long as if you cannot afford
24 a lawyer, one is appointed to represent you at the Government's
25 expense.

1 **THE DEFENDANT:** Yes, ma'am.

2 **THE COURT:** Do you understand if you went to trial,
3 you would be presumed innocent, the burden would be on the
4 Government to prove your guilt beyond a reasonable doubt?

5 **THE DEFENDANT:** Yes, ma'am.

6 **THE COURT:** And do you understand if you went to
7 trial, you or your attorney would have the right to
8 cross-examine, so he could ask questions of any witness who
9 testified against you? And if you went to trial, you would
10 have the right to make people come in and testify on your
11 behalf. If someone had some helpful evidence to give for you,
12 you could have a summons or a subpoena issued to make them come
13 in and testify?

14 **THE DEFENDANT:** Yes, ma'am.

15 **THE COURT:** Do you understand if you went to trial,
16 you personally would have the right to take the witness stand
17 and testify if you wanted to; but if you did not want to
18 testify, for whatever reason, no one could force you or make
19 you testify?

20 **THE DEFENDANT:** Yes, ma'am.

21 **THE COURT:** Do you also understand if you decided not
22 to testify, for whatever reason, no one, including the jury,
23 could hold that against you in any way, they could not decide
24 anything bad about your case or specifically that you were
25 guilty just because you decided not to testify?

1 **THE DEFENDANT:** Yes, ma'am.

2 **THE COURT:** Do you also understand if you did choose
3 to be tried by a jury, in order for you to be convicted, the
4 jury's verdict would have to be unanimous? There would be 12
5 jurors, they'd all have to agree that you'd been proved guilty
6 beyond a reasonable doubt.

7 **THE DEFENDANT:** Yes, ma'am.

8 **THE COURT:** Do you understand that when you plead
9 guilty, you are giving up each and every one of those rights,
10 there will be no further trial of any kind, and you will be
11 sentenced based on your guilty pleas?

12 **THE DEFENDANT:** Yes, ma'am, I do.

13 **THE COURT:** All right, sir. And, finally, do you
14 understand that by pleading guilty, you're giving up your right
15 to try to suppress any statements you might have made, keep
16 something out of evidence that might have been taken from you,
17 pretrial motions; in other words, any defense that you might
18 have to these charges, you give it up when you plead guilty?

19 Do you understand that?

20 **THE DEFENDANT:** Yes, ma'am, I do.

21 **THE COURT:** All right, sir. I do have a plea
22 agreement letter here dated January 2nd of 2018, which appears
23 to have your signature at the end.

24 Did you read and sign this agreement, Mr. Jenkins?

25 **THE DEFENDANT:** Yes, ma'am, I did.

1 **THE COURT:** All right. Directly above your signature
2 it says, "I have read this agreement, including the sealed
3 supplement, and carefully reviewed every part of it with my
4 attorney. I understand it and I voluntarily agree to it.
5 Specifically, I have reviewed the factual and advisory
6 guideline stipulation with my attorney, and I do not wish to
7 change any part of it. I am completely satisfied with the
8 representation of my attorney."

9 Is that all correct, Mr. Jenkins?

10 **THE DEFENDANT:** Yes, ma'am, it is.

11 **THE COURT:** All right. And specifically regarding the
12 representation that Mr. Levin has been providing to you, is
13 there anything you think he should have done that he hasn't
14 done or anything else you need to ask him about right now?

15 (The defendant conferred with counsel.)

16 **THE DEFENDANT:** I'm fine. Thank you, ma'am.

17 **THE COURT:** All right. Well, let me know if you think
18 of anything.

19 Let's go back to the beginning of the plea agreement.
20 I want to summarize it with you.

21 First, let me also ask whether anyone has used any
22 force or made any threats against you or against anyone else to
23 get you to enter into this plea?

24 **THE DEFENDANT:** No, ma'am.

25 **THE COURT:** Okay. So the charge -- excuse me, the

1 letter says you're pleading guilty to the charges we've
2 discussed, Counts 1, 2, 3, and 5 in 17-106; and Counts 1
3 through 5 in 17-638.

4 Paragraph 2 tells you the elements of those offenses,
5 what the Government would have to prove if the case went to
6 trial.

7 Paragraph 3 tells you about the possible penalties,
8 which we've talked about. That's Paragraph 3 and 4.

9 Paragraph 5 tells you about the rights you're giving
10 up by pleading guilty, which may include certain valuable civil
11 rights.

12 And if you were not a U.S. citizen, you might be
13 subject to deportation or other loss of immigration status.

14 Paragraph 6 says that you and the Government have an
15 agreement about the disposition in this case. You have an
16 agreement that a sentence between 240 and 360 months -- that's
17 20 to 30 years of incarceration -- is the appropriate
18 disposition of this case.

19 I don't have to accept that; but if I don't for some
20 reason, either side could set aside this agreement and
21 specifically you would have the chance to withdraw your plea.

22 Paragraph 7 says that you understand I still have to
23 determine an advisory guideline range and take that into
24 account in making a decision about sentencing.

25 Paragraph 8 says you agree to the statement of facts.

1 There is a lengthy Attachment A which I will try to summarize
2 briefly with you. That is a statement of facts.

3 Let me just be clear: Did you read that statement of
4 facts as well --

5 **THE DEFENDANT:** Yes, ma'am.

6 **THE COURT:** -- Mr. Jenkins?

7 All right. It says you agree that if the Government
8 did go to trial in this case, it could prove beyond a
9 reasonable doubt all the charges against you.

10 You agree to certain facts that at least the
11 Government could have proved going to trial, including that you
12 joined the Baltimore Police Department in February of 2003, and
13 that police department does constitute an enterprise under the
14 law, and its activities affected interstate commerce.

15 It says that sworn members of the Baltimore Police
16 Department have to follow the Law Enforcement Officers' Code of
17 Ethics.

18 It says that there was a Special Enforcement Section
19 of the Baltimore Police Department, as well as a
20 Gun Trace Task Force, and it outlines their mission and your
21 position as sergeant starting in November of 2012, then officer
22 in charge of an SES unit, and then officer in charge of the
23 Gun Trace Task Force starting June of 2016.

24 Identifies co-defendants you worked with, last names
25 Gondo, Hendrix, Hersl, Taylor, and Ward.

1 It reflects the purpose of the Baltimore Police
2 Department being to protect and preserve life and property and
3 purposes of you and co-defendants, by contrast, being violating
4 legitimate purposes of the police department to enrich
5 yourselves.

6 There are a number of means and methods by which you
7 and others accomplished these illegal purposes in general,
8 including stealing drugs from people who had been temporarily
9 detained and in some cases arrested, lying initially to
10 co-defendants, and also by preparing false incident reports
11 about taking these drugs.

12 It says that beginning in 2015, continuing through
13 2016, you also stole money from detainees and arrestees, taking
14 custody of money and keeping it for yourself or on some
15 occasions sharing it with some of your co-defendants.

16 It relates various ways in which you concealed your
17 criminal conduct, you and others, including false incident and
18 arrest reports and charging documents.

19 It relates that you learned at some time in 2016 about
20 the existence of this federal investigation and shared that
21 information with others.

22 It relates that you defrauded the Baltimore Police
23 Department with false and fraudulent time and attendance
24 records and also directed other defendants, while in the
25 Howard County Detention Center, to essentially obstruct

1 justice.

2 So you're agreeing that you were associated with the
3 enterprise described in the indictment, charges to which you
4 pled guilty; that you did knowingly become a member of the
5 conspiracy; and you did engage in a pattern of racketeering
6 activity and conduct or participate in the conduct of the
7 enterprise through that pattern.

8 It then indicates that there are a number of robberies
9 that you're agreeing to participating in. The specific ones
10 listed below include the May 11th, 2011, robbery of W.B. and
11 the theft of approximately \$1,800 on a false incident report.

12 July 11th, 2014, robbery of J.C., resulting in theft
13 between 12,000 and 14,000, which was not reported. It was
14 shared with a co-defendant.

15 Spring of 2015, there was a robbery at
16 Belvedere Towers in which you took 30 pounds of marijuana and
17 \$15,000, shared some of it, sold marijuana through an
18 individual identified as D.S., didn't report that.

19 February 4th of 2016, a robbery of M.S., operating a
20 taxicab at the time, stole 1,500 to 2,000 from him. Shared the
21 money but obviously didn't report it.

22 March 22nd, 2016, a robbery of O.S. and K.H. involving
23 approximately \$200,000 and some property and 2 kilos of cocaine
24 which D.S. then sold for you. Money that was shared but not
25 reported.

1 July 8th of 2016, robbery of R.H. and N.H. This
2 involved your falsely representing yourself to be a federal
3 officer. Eventually a theft of approximately \$20,000 and a
4 wristwatch, shared, false incident report prepared.

5 August 8th of 2016, a robbery of D.A. that involved a
6 storage unit. And you had the individual D.S. break into that
7 unit and steal a quantity of cocaine which was sold. You got
8 proceeds, shared some of that, didn't report it.

9 In general, it indicates there were a number of
10 occasions when you would enter a residence without a
11 search warrant to look for firearms. If they were found, then
12 you and co-defendants would create an affidavit that was not
13 truthful to obtain the search warrant for the premises.

14 It indicates there were a couple of -- there were
15 additional -- I should say there were additional instances when
16 you had taken drugs from detainees or arrestees and gave them
17 to this D.S. individual to sell, cocaine and marijuana.

18 There was also a quantity of heroin accumulated which
19 subsequently you gave to Co-Defendant Rayam to sell. And you
20 received profits from the sale of these drugs, including some
21 prescription medications that were stolen in April of 2015
22 during the riots in the city.

23 There are some instances indicated when you broke into
24 unoccupied houses to steal money, property, and drugs,
25 including some watches and stole from a drug dealer's car.

1 That was a quantity of money, and you actually sent D.S. to
2 break into the car. It says you also stole dirt bikes.

3 And then it indicates the occasion in June, and later
4 October of 2016, when you obtained information about this
5 federal investigation and shared it.

6 Going on, the next paragraphs relate to submitting
7 false and fraudulent individual overtime reports, together with
8 other members of your units, and doing that with the intent to
9 defraud the Baltimore Police Department.

10 And then there are paragraphs relating to planting
11 evidence on U.B. and B.M., that being April 28th of 2010, a car
12 chase which, unfortunately, resulted in a death after the
13 crash.

14 It essentially says that you were responsible for
15 having heroin planted in that vehicle, authoring a false
16 statement of probable cause.

17 You knew that those two individuals were then charged
18 with and imprisoned for -- on federal drug charges, the heroin
19 that had been planted in U.B.'s car.

20 There are also discussions about carrying BB gun
21 pistols to plant on suspects if firearms could not be found.

22 Specifically, you admitted that between -- you are
23 admitting that between April 28th of 2010 and November 30th of
24 2017 making false statements and false entries in a statement
25 of probable cause in relation to that seizure of heroin. That

1 was within the jurisdiction of the DEA.

2 And also between approximately those same dates, by
3 virtue of the fact that U.B. and B.M. both wound up
4 incarcerated, that you committed the violations of civil
5 rights, the violations under color of law in Counts 2 through
6 5.

7 Okay. That was a summary, but you said you have read
8 the entire thing.

9 Do you agree, sir, that the statement of facts is
10 correct and you did what it says in there you did?

11 **MR. LEVIN:** Your Honor, there was one correction with
12 respect to Case No. 17-638.

13 **THE COURT:** All right.

14 **MR. LEVIN:** What the statement of facts actually
15 reads -- and there was a lot of back-and-forth about this --
16 Mr. Jenkins is acknowledging that he was aware that drugs had
17 been planted.

18 He's not acknowledging that he planted the drugs,
19 although he's acknowledging that he authored a false report
20 with respect to another officer planting those drugs.

21 Also, Your Honor, I just want to put on the record, so
22 it's not an issue later, Mr. Jenkins recognizes that there is a
23 motion outstanding with respect to whether the
24 Hobbs Act robbery charges are duplicitous.

25 There's also a motion outstanding with respect to

1 whether the statute of limitations would prohibit the filing of
2 those charges relating to Mr. Burley.

3 Notwithstanding those pending motions, Mr. Jenkins
4 wants to plead guilty, wants to accept responsibility. So he's
5 pleading guilty knowing that those motions are pending.

6 **THE COURT:** And that he is giving up his right to
7 prevail on those motions should -- I'm not saying that he
8 would, in any event, but he's giving up those motions by
9 pleading guilty and accepting responsibility today.

10 **MR. LEVIN:** Yes, Your Honor, Mr. Jenkins is aware of
11 that and he wishes to proceed.

12 **THE COURT:** Okay. All right. With that context,
13 which I think is consistent with what's in the statement of
14 facts, but let me ask you again, Mr. Jenkins: Do you agree
15 that the statement of facts, with the further acknowledgment by
16 your counsel, but do you agree that that is correct and you did
17 what it says in there you did?

18 (The defendant conferred with counsel.)

19 **THE DEFENDANT:** Yes, ma'am.

20 **THE COURT:** You do agree that you're guilty of all
21 these offenses?

22 **THE DEFENDANT:** Yes, ma'am.

23 **THE COURT:** Okay. Going back to the plea agreement
24 relating to the guidelines, I'm not going to go through all of
25 this. There is a fairly extensive calculation of the

1 guidelines based on the specific robberies that you've admitted
2 to and in general, aspects such as what the base offense level
3 is, that there's a firearm possessed, physical restraint of a
4 victim, your being a leader or organizer, there being an abuse
5 of trust and obstruction of justice, the way these are grouped,
6 as well as the destruction of records and the false overtime.

7 Essentially, to get to the bottom line, there's a
8 total offense level of 42 for that first group of offenses.

9 Subsequent grouping for all the others, let me just go
10 to Paragraph 14. The Government's not going to oppose a
11 two-level downward adjustment in all the offense levels because
12 of your timely acceptance of responsibility, and, in fact, will
13 make a motion for the third level, so there would be three
14 levels down from all of these offense levels, meaning the
15 highest adjusted offense level you're expecting is 39 for
16 Counts 1 and 2 of 17-106, and there are various offense levels
17 then listed.

18 Now, the Government might oppose any adjustment of
19 those three levels I just mentioned for acceptance of
20 responsibility if there's some violation of the plea agreement
21 between now and sentencing; for example, you failed to accept
22 personal responsibility.

23 Paragraph 16 says there's no agreement about your
24 criminal history.

25 Paragraph 17 says you have no disputes with the

1 Government about the guidelines.

2 Both you and the Government have the right to argue
3 for a sentence outside the advisory guideline range, as long as
4 it's within the 20 to 30 years that's agreed to.

5 And both you and the Government can give me any
6 information that would be helpful for me to make the sentencing
7 decision.

8 Paragraph 20 says you understand a restitution order
9 will be entered for the full amount of the victims' losses.

10 Government, is that something that's been agreed upon
11 yet or will be in connection with sentencing?

12 **MR. WISE:** Your Honor, we will have a restitution
13 figure closer to sentencing, in part, because very recently, we
14 have been able to recover some of the stolen property,
15 including an FBI dive team recovering watches underwater, to
16 return to victims. And so that will affect the amount of the
17 total restitution to be paid.

18 **THE COURT:** Okay. All right. Well, sir, you're
19 agreeing to pay restitution as ordered and to cooperate with
20 the U.S. Attorney's Office on that.

21 Now, Paragraph 24 relates to your appeal rights. And,
22 first of all, it says that you're giving up your right to
23 appeal your conviction; in other words, your guilty pleas today
24 are your convictions of all these charges, and you're giving up
25 your right to appeal that.

1 Both you and the Government are also giving up the
2 right that I previously mentioned to appeal the sentence.

3 Now, you could still use what's called Rule 35 to
4 correct some technical error in the sentence, but otherwise,
5 again, both you and the Government are giving up your right to
6 appeal the sentence.

7 Then it says you're giving up your rights under the
8 Freedom of Information Act. That just means you won't be
9 asking for more documents about the case.

10 Paragraph 25 tells you that if you -- again, if you
11 violate the plea agreement in some way between now and
12 sentencing, if you engage in obstruction of justice, fail to
13 accept personal responsibility, committed some new offense, if
14 the Government proved that to me, then they would be free of
15 their obligations to you under this plea agreement, they could
16 make different recommendations, for example, and you would not
17 necessarily be allowed to withdraw your guilty plea.

18 Now, Paragraph 26, counsel, I think it needs a little
19 bit of an adjustment. It tells you that the Court's not a
20 party to the agreement, which is correct.

21 I'm not bound by the stipulation. I have an
22 independent responsibility to decide what the facts are, what
23 the guidelines range is, and ultimately a reasonable sentence
24 within the range that you all have agreed to.

25 So I'm just asking, counsel, take a look at

1 Paragraph 26. It says I have the power to impose a sentence up
2 to and including the statutory maximum. If that statutory
3 maximum, by virtue of any consecutive sentencing, would be
4 higher than 30 years -- and I haven't -- I'm not sure if I've
5 looked that up, but the most that I can impose under this
6 agreement is 30 years, as I read it.

7 **MR. WISE:** We agree, Your Honor.

8 **MR. LEVIN:** Yes, Your Honor, we agree.

9 **THE COURT:** Okay. And then it says that's the
10 complete plea agreement in this case, together with the sealed
11 supplement.

12 Now, we have a policy in this district of having a
13 sealed supplement in every case discussing cooperation, so what
14 I'm about to say will remain under seal if a transcript of the
15 proceeding is ordered.

16 In this instance, do counsel wish to approach the
17 bench?

18 **MR. LEVIN:** Yes, Your Honor.

19 **THE COURT:** Okay.

20 Conference at the bench.

21 (It is the policy of this court that every guilty plea and
22 sentencing proceeding include a bench conference concerning
23 whether the defendant is or is not cooperating.)

24 **THE COURT:** Okay. So that was a summary of the plea
25 agreement.

1 Any additions, corrections, or modifications from the
2 Government's point of view?

3 **MR. WISE:** No, Your Honor. Thank you.

4 **THE COURT:** Okay. Mr. Levin, anything?

5 **MR. LEVIN:** Nothing further, Your Honor. Thank you.

6 **THE COURT:** Okay. Mr. Jenkins, most important, I
7 didn't read this word for word, but as far as you're concerned,
8 was that a correct summary of what you think your agreement
9 with the Government is?

10 **THE DEFENDANT:** Yes, ma'am, it is.

11 **THE COURT:** All right. Let me put it another way: Is
12 there anything else that's been promised to you, any reward,
13 any benefit, anything you expect to get in exchange for your
14 guilty pleas besides what's in that letter?

15 **THE DEFENDANT:** No, ma'am, not at all.

16 **THE COURT:** Okay. Any questions at all, sir, for me
17 or for your lawyer about your guilty pleas or the terms of your
18 plea agreement?

19 **THE DEFENDANT:** No, ma'am.

20 I'm ashamed of myself.

21 **THE COURT:** Okay. Sure. It is unfortunate that you
22 find yourself here.

23 But I will find that, based on your answers and
24 reviewing the record and what counsel have told me, that you're
25 competent to enter these guilty pleas. I believe you

1 understand the charges against you and the penalties you're
2 subject to.

3 I find that you understand the rights you're giving up
4 by pleading guilty, that you're doing this voluntarily, and
5 there is a factual basis for your entry of these pleas, so I'm
6 accepting your pleas of guilty to Counts 1 and 2 and 3 and 5 of
7 the 17-106 and Counts 1 through 5 of 17-638.

8 I have an expedited sentencing order in front of me.
9 I'm not sure how much I'm going to be in a position to expedite
10 this. There is still a trial scheduled for other people.

11 Let's see. Would Wednesday, March 21st at 9:15 be
12 available?

13 **MR. WISE:** Your Honor, I'm in trial in front of
14 Judge Chasanow in one of the ECI prison cases starting on the
15 19th, I believe.

16 **THE COURT:** All right. How long a trial is that?

17 **MR. WISE:** It's expected to last two weeks.

18 **THE COURT:** Supposing we backed up to the Thursday
19 before that, March 15th at 9:15?

20 **MR. WISE:** I'm actually going to be in -- out of the
21 state. I apologize. It's a school break that week.

22 **THE COURT:** All right. Wednesday, April 4th, 9:15?

23 **MR. LEVIN:** Mr. Wise has a different school, so I'm on
24 school break that week, Your Honor.

25 **THE COURT:** Thursday, April 12th, 9:15?

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<p>W</p> <p>way [5] 4/2 12/23 23/5 25/11 27/11</p> <p>WAYNE [6] 1/5 2/8 2/10 2/14 2/20 2/23</p> <p>WAYNE JENKINS [5] 1/5 2/8 2/10 2/14 2/20</p> <p>ways [1] 17/16</p> <p>we [7] 24/12 24/13 26/7 26/8 26/12 28/18 29/10</p> <p>we'll [1] 2/17</p> <p>we've [2] 15/1 15/8</p> <p>Wednesday [2] 28/11 28/22</p> <p>week [2] 28/21 28/24</p> <p>weeks [1] 28/17</p> <p>well [6] 3/25 14/17 16/4 16/19 23/6 24/18</p> <p>went [7] 5/12 6/24 12/2 12/6 12/9 12/15 15/5</p> <p>were [20] 3/2 4/22 5/23 6/7 7/21 8/1 8/18 10/1 11/13 12/24 15/12 18/2 19/9 19/11 19/14 19/14 19/15 19/21 20/14 20/17</p> <p>what [21] 2/25 3/2 4/6 4/8 5/11 6/23 7/16 8/10 10/8 10/15 15/5 21/10 21/14 22/17 23/2 25/22 25/22 26/13 27/8 27/24 29/5</p> <p>what's [4] 5/7 22/13 25/3 27/14</p> <p>whatever [4] 8/18 9/19 12/18 12/22</p> <p>when [7] 11/2 13/8 13/18 19/10 19/15 19/23 20/4</p> <p>whether [5] 6/18 14/21 21/23 22/1 26/23</p> <p>which [18] 3/8 7/24 13/22 15/8 15/10 16/1 17/6 17/16 18/3 18/13 18/16 18/24 19/7 19/18 20/12 22/13 25/20 29/10</p> <p>while [2] 9/20 17/24</p> <p>who [3] 2/15 12/8 17/8</p> <p>will [12] 6/17 13/10 13/10 16/1 23/12 24/9 24/11 24/12 24/16 26/14 27/23 29/10</p> <p>willful [1] 8/5</p> <p>willfully [2] 5/25 8/8</p> <p>willing [2] 11/13 11/15</p> <p>Wise [4] 1/16 2/5 2/7 28/23</p> <p>wish [5] 3/5 3/15 14/6 26/16 29/7</p> <p>wishes [1] 22/11</p> <p>withdraw [2] 15/21 25/17</p> <p>within [4] 7/13 21/1 24/4 25/24</p> <p>without [3] 8/2 9/25 19/10</p> <p>witness [2] 12/8 12/16</p> <p>won't [1] 25/8</p> <p>word [2] 27/7 27/7</p> <p>words [2] 13/17 24/23</p> <p>worked [1] 16/24</p> <p>works [1] 10/3</p> <p>would [30]</p> <p>wound [1] 21/3</p> <p>wristwatch [1] 19/4</p>	<p>you'd [1] 13/5</p> <p>you're [22] 4/8 5/10 8/20 10/7 11/3 11/5 13/14 15/1 15/9 18/2 18/9 22/20 23/15 24/18 24/22 24/24 25/7 27/7 27/24 28/1 28/3 28/4</p> <p>you've [2] 11/4 23/1</p> <p>your [60]</p> <p>Your Honor [17] 2/6 2/12 21/11 21/21 22/10 24/12 26/7 26/8 26/18 27/3 27/5 28/13 28/24 29/1 29/2 29/5 29/15</p> <p>yourself [3] 17/14 19/2 27/22</p> <p>yourselves [1] 17/5</p>	<p>Case 1:17-cr-00638-CCB Document 19 Filed 07/27/18 Page 37 of 37</p>
<p>Y</p> <p>year [2] 3/2 9/8</p> <p>years [12] 8/16 8/17 8/20 8/20 9/2 9/3 9/8 9/18 15/17 24/4 26/4 26/6</p> <p>Yes [36]</p> <p>yet [2] 24/11 29/10</p> <p>you [216]</p>	<p>Z</p> <p>Zweizig [3] 1/23 29/18 29/22</p>	